

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

**HOPE THOUROGOOD,**

**Plaintiff,**

**v.**

**CIVIL ACTION NO. \_\_\_\_\_**

**OUTBACK STEAKHOUSE OF  
FLORIDA, LLC,**

**Defendant.**

**SERVE: Outback Steakhouse of Florida, LLC  
c/o Corporate Creations Network, Inc.  
425 West Washington Street, Suite 4  
Suffolk, VA 23434-5320**

**COMPLAINT**

Plaintiff, by counsel, hereby moves this Court for judgment and execution against the Defendant for the following:

1. The Plaintiff is, and at all relevant times has been, a resident of the State of Virginia and, specifically, the Norfolk Division of the Eastern District of Virginia.
2. The Defendant is an organization organized and existing outside of the State of Virginia but which transacts considerable business within the State of Virginia.
3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §1332 in that the citizenship of the parties is diverse and the matter in controversy exceeds the sum or value of \$75,000.00 exclusive of interest and costs.

4. Venue is proper in this Court pursuant to 28 U.S.C. §1391 in that this is the judicial district in which a substantial part of the events or omissions giving rise to the claim occurred.

5. On July 1, 2020, the Defendant was operating a restaurant in Virginia Beach located at 1757 Laskin Road.

6. As the operator of a restaurant, the Defendant impliedly warranted the merchantability of the food it was serving to the Plaintiff and others.

7. On July 1, 2020, the Plaintiff was lawfully and properly a customer at the Defendant's restaurant and was comporting herself in conformance with her invitation to be on the premises and to be a customer of the Defendant.

8. On July 1, 2020, the Defendant was serving food to the general public and, specifically, to the Plaintiff.

9. On July 1, 2020, the Plaintiff ordered her food from the Outback Steakhouse and it was handed to her by an employee of the Outback Steakhouse and she took the food home to eat it.

10. The Plaintiff ordered a steak.

11. The Plaintiff ate several bites of the steak.

12. Shortly after beginning to eat her food, the Plaintiff started to feel uncomfortable and had to go lie down.

13. Shortly after waking up, the Plaintiff began to violently vomit and have diarrhea.

14. Upon inspection of her food, the Plaintiff saw some sort of worms/bugs crawling

through the steak.

15. The Plaintiff then went to the emergency room at Sentara Virginia Beach General Hospital where she was diagnosed with food poisoning.

16. The Plaintiff ultimately had to return to the hospital because of continuing stomach pain.

17. Prior to this incident, the Plaintiff suffered from irritable bowel syndrome.

18. The food poisoning triggered an exacerbation of her irritable bowel syndrome and she began suffering from that.

19. Over the months since this incident has happened, the Plaintiff has also suffered an exacerbation of her post-traumatic stress disorder. She has a difficult time eating food. She has the constant fear that she has worms in her body.

20. The Plaintiff has been left with significant physical and emotional scars as a result of this incident which appear at this point to be permanent.

### **COUNT I**

21. Plaintiff adopts and realleges all preceding paragraphs as if repeated herein.

22. Pursuant to Virginia Code Section 8.2-314, the Defendant warranted that its food was such that it would pass without objection in the trade. The Defendant further warranted that its food was fit for the ordinary purposes for which it was intended.

23. As set out above, the Defendant breached its warranty by serving food that was infected with worms and other living creatures.

24. As a result of the Defendant's breach of warranty and its serving the food infested with worms and other living creatures, the Plaintiff suffered a significant injury and continues to suffer from it up to and including today.

## COUNT II

25. Plaintiff adopts and realleges all preceding paragraphs as if repeated herein.

26. The Defendant owed a duty of reasonable care to the Plaintiff and others in serving her food at its restaurant.

27. As set out above, the Defendant breached that duty by serving to the Plaintiff food that was infested with worms and other living creatures.

28. The Defendant's conduct was negligent and/or grossly negligent.

29. As a direct result of the Defendant's conduct, the Plaintiff suffered a significant injury and continues to suffer the effects of that injury today.

30. As set out above, the Plaintiff has suffered great pain, mental anguish, inconvenience, has incurred substantial medical bills, and has been unable to handle her day-to-day affairs as a direct result of the Defendant's breach of warranty and negligence.

31. The Plaintiff's injuries appear to be permanent.

WHEREFORE, the Plaintiff prays for judgment and execution against the Defendant in the amount of TWO MILLION SIX HUNDRED FORTY-SEVEN THOUSAND FIVE HUNDRED FORTY-EIGHT DOLLARS AND SEVENTY-SEVEN CENTS (\$2,647,548.77), plus pre and post-judgment interest, plus all of her costs in proceeding with this matter.

Plaintiff requests a trial by jury.

**HOPE THOUROGOOD**

By: 

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